

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 3:18-cr-0070

CHARLES EDWARD GRAVES

Defendant.

DEFENDANT'S SENTENCING MEMORANDUM

COMES NOW, the Defendant, Charles Edward Graves, by Counsel, L. Thompson Price, and pursuant to the Court's Order offers this memorandum in support of the Defendant's position regarding sentencing issues.

BACKGROUND

On April 3, 2016 a federal grand jury convening in Beckley, West Virginia returned a single count Indictment charging the Defendant, Charles Graves and others with a conspiracy to distribute a quantity of heroin and a quantity of fentanyl in violation of 21 U.S.C. § 841(a)(1). The Indictment alleges offenses occurred in or around Huntington, Cabell County, West Virginia, within the Southern District of West Virginia.

Mr. Graves executed a plea agreement and on August 20, 2018 he pled guilty to the single count Indictment. The plea agreement contained a Stipulation of Facts comprising the offense of conviction and Mr. Graves and the Government agreed that a United States Sentencing Guidelines Base Offense Level 14 applies to this case.

RELEVANT SENTENCING FACTORS UNDER 18 U.S.C. 3553(a)

A. The Nature and Circumstances Of The Offense And The History And Characteristics Of The Defendant

Charles Graves was born in Detroit, Michigan, on March 25, 1972. He is unmarried, but has been in a dating relationship with Makisha Young, whom Mr. Graves considers his wife, for 30 years. Mr. Graves has had two children with Ms. Young, has two grandchildren, and has had extensive involvement in their upbringing. Mr. Graves's daughter passed away at the age of 19 in 2009, due to complications from cerebral palsey. Ms. Young, Mr. Graves's son , and his grandchildren live in Phoenix, Arizona, where Ms. Young operates a cleaning business. Mr. Graves aspires to return Phoenix or return to Canton, Ohio, where he resided for the two years prior to his arrest.

Although Mr. Graves did not earn a high school diploma he has had some success with employment. He worked for approximately nine years with Chrysler in Detroit, Michigan until he was laid off in 2009. Subsequently, Mr. Graves was employed in Phoenix. Mr. Graves returned to the use of drugs after the loss of his daughter and his employment.

The offense of conviction is the result of an investigation by the Drug Enforcement Administration and the Huntington Violent Crime And Drug Task Force. On February 2, 2018, law enforcement conducted a controlled buy from Mr. Graves. A confidential informant called a phone number associated with Mr. Graves but another individual answered the phone. The informant placed another call to the same phone and it was answered by Mr. Graves and he directed the

informant to 1800 Seventh Avenue in Huntington, West Virginia. The informant provided Mr. Graves with \$500.00 in exchange for five grams of heroin.

Laboratory analysis later confirmed the suspected heroin was fentanyl weighing approximately 4.9875 grams.

B. The Need For The Sentence Imposed

It is submitted that this Court is vested with the discretion in light of the provisions of 18 U.S.C. § 3553 and § 5C1.2 of the Federal Sentencing Guidelines so as to balance the need to reflect the seriousness of the offense, provide for punishment and adequate deterrence, and protect the public. Mr. Graves requests that the Court consider imposing a sentence at the bottom of the Sentencing Guideline range. He does not want to minimize the seriousness of his offense, but he was not an organizer of criminal activity.

Mr. Graves's lack of criminal convictions is a mitigating factor. His criminal history category is III. The thought of going to prison has been a significant punishment in and of itself. He has reflected upon his upcoming imprisonment in this matter and individuals he knows in the community have vicariously experienced the punishment, thus creating a deterrent to those in the community from committing a like offense and deterring the defendant from committing further offenses.

C. Kinds Of Sentences Available

The offense of conviction in this matter, 21 U.S.C. § 841(a)(1) carries with it a statutory sentence of up to 20 years.

D. Sentencing Range Established By The Guidelines

The applicable Guideline range is in Zone D of the Sentencing Table. The Defendant and the Government stipulated to a Base Offense Level 14. Mr. Graves pled to the single count Indictment and accepted responsibility. It is anticipated that Mr. Graves will be afforded the 2 point reduction for acceptance of responsibility resulting in a Total Offense Level of 12, which combined with a Criminal History Category III, yields a guideline imprisonment range of 15-21 months.

E. Avoidance Of Unwarranted Sentencing Disparities

Counsel is not aware of any disparities which could reasonably exist upon sentencing.

F. Restitution

This consideration is not applicable under the facts of this case.

THE SENTENCING HEARING

At this time, counsel for Mr. Graves does not anticipate presenting witnesses at the sentencing hearing.

**Respectfully Submitted,
Charles Graves**

/s/ L. Thompson Price
Counsel for Defendant
L. Thompson Price, Esq.
WV State Bar ID #7011
604 Virginia Street, East
Charleston, WV 25301
(304) 345-0889

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

HUNTINGTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 3:18-cr-00070

CHARLES EDWARD GRAVES
Defendant.

CERTIFICATE OF SERVICE

Undersigned Counsel does hereby certify that the foregoing DEFENDANT'S SENTENCING MEMORANDUM has been electronically filed with the Clerk of Court this date, using the CM/ECF system and served upon opposing Counsel as follows:

Via CM/ECF: **Stephanie S. Taylor**
 Assistant United States Attorney
 300 Virginia Street East
 Room 4000, United States Courthouse
 Charleston, WV 25301

Date: November 19, 2018

/s/ L. Thompson Price

L. Thompson Price, Esq.,
WV State Bar ID #7011
604 Virginia Street, East
Charleston, WV 25301
(304) 345-0889